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FAX TRANSMITTAL

TO Mr. Shawn M. Garvin
U.S. EPA Regional Administrator FROM Sierra Club
Pennsylvania Chapter
DATE 01/13/2012
RE _____ # PGS 6

☐ Urgent ☐ For Review ☐ Please Comment



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Mr. Shawn M. Garvin
Regional Administrator
U.S. Environmental Protection Agency
Region 3
1650 Arch Street
Philadelphia, PA 19103-2029

CC:

The Honorable Lisa P. Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave NW
Washington, DC, 20004

Dear Regional Administrator Garvin:

We are writing to you in response to Pennsylvania Department of Environmental Protection ("DEP") Secretary Krancer's letter sent to you on January 5, 2012. Being quite familiar with the current status and history of the situation in Dimock PA, we take great exception Mr. Krancer's characterization of DEP's role and performance regarding groundwater contamination there. In his letter to you, Secretary Krancer misrepresents both the situation in Dimock and the Department's track record of enforcement. We believe that it is imperative that EPA understand that Pennsylvania families, nonprofit organizations, and many others have

reached out to EPA precisely because DEP has failed to meet its statutory and regulatory responsibilities with regard to the water problems in Dimock.

If it is indeed true that EPA's understanding of the Dimock situation and DEP's role is "rudimentary," as Secretary Krancer asserts, your agency will not become better informed by Secretary Krancer's letter. Given our knowledge of these matters, we find that letter to be quite misleading and troubling.

Although Secretary Krancer asserts that "science and fact" have "too often been eclipsed by strong emotion," his own letter wrongly dismisses the legitimate concerns of Dimock's citizens and raises irrelevant matters. The ongoing litigation against Cabot, the company linked with water problems in Dimock, neighborhood disputes, groundwater contamination in Wyoming and the amount of time that DEP staff have spent on Dimock in the past have no bearing whatsoever on the chemistry of the contaminated water in Dimock and whether or not the water is safe for household use.

The following narrative prepared by Natural Resources Defense Council (NRDC) presents an accurate summary of the failures to act on the part of DEP.

The long history of problems in Dimock began with the explosion of the private water well of Norma Fiorentino on January 1, 2009. Subsequent investigation by the Pennsylvania Department of Environmental Protection ("PADEP") revealed that local water supplies, including eighteen drinking water wells, had been contaminated by such problems as failures of improperly cased and cemented wells, spills of drilling mud from drilling operations, and migration of wastes from unlined trenches. As a result, PADEP entered into a consent order with Cabot on November 4, 2009, in which the driller promised to deliver temporary fresh water to affected residents until the contaminated water supplies were restored or replaced in accordance with the Pennsylvania Oil and Gas Act. Additionally, in October of 2010, then Secretary John Hanger publicly announced that PADEP would seek the "permanent solution of a new \$11.8 million dollar fresh water 5.5 mile pipeline to Dimock, to be initially paid for by the State, and then costs recovered from Cabot.

Despite these promises and Cabot's legal obligation to restore the contaminated water supplies, Dimock residents today remain without reliable clean water. In December 2010, less than two months after it was promised and approved, PADEP canceled its plans to build a pipeline to affected residents. Instead, it entered into a modified consent order with Cabot by which the driller would ostensibly be relieved of its obligations under the OGA without actually cleaning up or replacing the polluted water. As a result, Cabot discontinued provision of temporary water on December 1, 2011. Dimock residents have been without consistent clean water since then — relying instead on emergency water deliveries from non-profit groups and nearby municipalities and pumping and treating local pond and creek water with bleach.

The affected water of Dimock residents was and continues to be contaminated and unfit for human consumption, according to information reviewed by NRDC. Testing of the water conducted on behalf of Cabot and PADEP's own Bureau of Laboratories in 2010 and 2011 showed the presence of contaminants such as aluminum, barium, beryllium, iron, lead, manganese, toluene, tributyl phosphate, and non-naturally occurring chemicals associated with hydraulic fracturing gas drilling such as bis (2-Ethylhexyl) adipate, bis (2-Ethylhexyl) phthalate, and ethylene glycol — many in excess of state and federal safe drinking water standards. Follow up testing paid for by Cabot in the Fall of 2011 confirmed contamination in excess of safe drinking water standards" and found the presence of additional contaminants such as 1-Methylnaphthalene, 2-methoxyethanol (solvent and jet-fuel de-icer), 2-Methylnaphthalene, butyl benzyl phthalate, diethylene glycol (plasticizer), naphthalene (used to make plastics), triethylene glycol, and methylene blue active substances, among others. Although a number of these additional contaminants do not yet have Maximum Contaminant Levels under federal and state law, many are known to be harmful if ingested.

The remedial water treatment measures approved by PADEP in the December agreement— namely, the offer to install "whole house" methane mitigation systems at each of the affected residences — are insufficient to mitigate the continuing health hazards posed to residents by their toxic well water. Even disregarding the fact that the proposed treatment likely cannot be installed at many affected households, the whole house systems are ineffective at removing the multifold contaminants now found in the Dimock water. The systems were primarily designed for removal of methane and

biological contaminants, and limited water testing *after* treatment has demonstrated the presence of ethylene glycol (antifreeze). PADEP has done no independent testing of post-treatment water, and seems wholly unconcerned as to its potability.

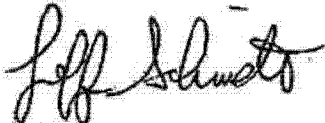
Put simply, the available evidence shows that the water available to many families in Dimock is undrinkable, and it links those problems to gas extraction activities there. EPA's efforts to fully understand, and address, this serious situation are commendable. In this regard, Secretary Krancer's invitation for extensive and close "cooperation" between EPA and DEP causes us great concern. DEP's decision to allow Cabot to cease providing water to Dimock without assuring residents that their water is potable is contributing to the problems there. Although EPA should certainly review DEP's information, we urge you to form your own judgments. For EPA to gain a thorough understanding of the Dimock matters at hand will require that your agency conduct independent investigations and inquiries.

EPA emphatically has the authority, and obligation, to independently investigate Dimock's water crisis and to take any necessary remedial action. This authority arises from several complementary statutes. NRDC's recent letter to you demonstrates that CERCLA allows EPA to take rapid action in response to the release of hazardous substances. The Safe Drinking Water Act ("SDWA") also grants EPA such remedial authority. The SDWA provides that the EPA may act "upon receipt of information that a contaminant which is present in or is likely to enter [an]... underground source of drinking water" may "present an imminent and substantial endangerment to the health of persons." 42 U.S.C. § 300i(a). If state and local authorities have not acted to protect the community, EPA may take action "as necessary" in order to protect public health, "including orders requiring the provision of alternative water supplies by persons who caused or contributed to the endangerment." *Id.* EPA has ordered gas companies to provide drinking water in the past in these circumstances. See, e.g., EPA, Emergency Administrative Order, *In the Matter of: Range Resources Corporation and Range Production Company*, Docket No. SDWA-06-2011-1208 (Dec. 7, 2010).

Both the affected residents in Dimock and the people of Pennsylvania need EPA's vigorous oversight on unconventional natural gas matters in our state. In many regards, our state regulator, DEP, lacks the resources to effectively enforce state laws and regulations on the industry and to carry out its delegated federal responsibilities in Pennsylvania. The Corbett administration has demonstrated that it will not work with DEP staff to effectively regulate the growing industry. Thus, we depend upon EPA for meaningful, effective oversight of the industry in the Commonwealth. Dimock is the tip of the iceberg. You and your agency would be stunned by the number of similar situations which have never received media coverage.

Thank you very much for investigating the situation in Dimock. We appreciate the time and resources that you are directing to this effort. We certainly hope your inquiries and investigations continue. We stand ready to provide EPA information about similar situations across Pennsylvania.

Sincerely yours,



Jeff Schmidt, Chapter Director

 L.D.

Arthur Clark, Oil & Gas Committee Co-chair